

# CHAPTER 3

## Government Response

### Immediate response

3.1 The Western Australian Government established a five point plan after the Premier met with industry leaders on the Sunday after the explosions. The Coordinator of Energy, Mr Jason Banks, outlined the government's response in the immediate aftermath of the incident:

The first two days of the incident involved intelligence gathering and establishment of communication lines with key stakeholders to ascertain the impact and magnitude of the disruption...

The Office of Energy assisted in convening the meeting of 8 June between the previous Premier and key industry stakeholders...The outcome of this meeting was the establishment of a Gas Supply Coordination Committee<sup>1</sup>... to assist the state to identify and manage the potential impacts of the gas supply disruption on the Western Australian community, in particular operation on energy supply levels and the implementation of the previous government's five-point plan in response to the incident.

The five-point plan involved accessing gas from the North West Shelf and other suppliers, accessing energy from other sources to free up gas such as displacing gas from power generation with distillate fuel, encouraging gas and electricity customers not to waste energy, working with industry to shift demand to low-peak times and ensuring that diesel was available to replace natural gas where possible. The office convened the first meeting of the Gas Supply Coordination Committee on Monday, 9 June with the key output of that meeting being an agreed set of guiding principles for the allocation of available energy.<sup>2</sup>

### Emergency powers and plans

3.2 Without declaring an emergency, there are limits to the extent to which the government can intervene in commercial arrangements.

3.3 A minority view was that the government should invoke emergency powers. However in general those witnesses who supported this position seemed unaware of

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1 Members of the Coordination Committee were the Office of Energy, the Minister for Energy's office, the Office of the Premier, Department of Premier and Cabinet, the Department of Industry and Resources, the Government Media Office, the Chamber of Commerce and Industry, the Chamber of Minerals and Energy, Alinta, the Dampier to Bunbury Pipeline, Verve Energy and Western Power system management and Synergy.

2 Mr Jason Banks, Office of Energy, *Proof Committee Hansard*, 2 October 2008, pp 108–109.

the limitations that apply to the invocation of emergency powers or the potential litigation that may result if such action had been taken by the state government. However most witnesses seemed supportive of the decision not to invoke emergency powers.

We strongly endorse the government's decision, which was taken at an early stage, not to intervene in gas production and delivery arrangements by invoking emergency powers and instead allowing, to the extent possible, market forces to resolve issues which arose as a consequence of the incident.<sup>3</sup>

Industry and the Chamber were supportive of the State Government's preferred strategy of not invoking emergency powers but of seeking voluntary contributions to a managed outcome.<sup>4</sup>

... our view that we expressed at the time was that the market should prevail, and I mention that contracts should remain intact. I think the preference for the market prevailing, even though there are consequences and they are in the form of cost increases, overwhelmingly is a better option than having intervention in the marketplace.<sup>5</sup>

There is a point at which emergency powers become relevant. I do not think emergency powers were appropriate in this particular situation...<sup>6</sup>

3.4 Other witnesses such as the Food Industry Association of Western Australia argued that the government should have had plans to 'step in and take some control so that (a) there is no profiteering and (b) there is allocation where it is required.'<sup>7</sup>

### ***Emergencies under the Energy Coordination Act 1994 (WA)***

3.5 There are specific provisions under the *Energy Coordination Act 1994 (WA)* relating to gas supply system emergencies. If a state of emergency exists in relation to the gas supply system the Minister is able to make emergency orders under the Act.

3.6 In relation to these emergency powers, the former Minister for Energy, Hon Fran Logan MLA, told the committee that:

...you can only issue those gas and electricity emergency orders if there is a likelihood of a collapse or depressurisation of the gas system, which was not the case; we only lost a third of the gas in this instance. But before you issue any orders, the first thing you have to do is get people who are likely

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3 Mr James Pearson, Chamber of Commerce and Industry of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 34.

4 Chamber of Minerals and Energy of Western Australia, *Submission 17*, p. 1.

5 Mr Reg Howard-Smith, Chamber of Minerals and Energy of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 100.

6 Mr Stuart Hohnen, DomGas Alliance, *Proof Committee Hansard*, 2 October 2008, p. 33.

7 Mr David Lock, Food Industry Association of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 93.

to be affected or who can have an impact on addressing the situation, get as many of them as possible together, to work in a collaborative manner. That is what those gas emergency orders ask you to do. They say it is far better to work in a collaborative manner than to have the government standing there issuing orders to people; and that is what was done. That is what was done.<sup>8</sup>

For the government to intervene—which is what people were asking for—and allocate that gas, even if you were to try to do it under the emergency powers...somebody else would miss out. Remember, this is gas that is all contracted and...for a government to jump in to break up a contract between two parties and take that gas and allocate it to another party is a recipe for disaster.<sup>9</sup>

### ***Emergencies under the Emergency Management Act 2005 (WA)***

3.7 More general emergency powers can be invoked under the *Emergency Management Act 2005* (WA). Emergency powers under the Act apply when an 'emergency situation' (declared by a Hazard Management Agency, such as the Department of Consumer and Employment Protection) or a 'state of emergency' (declared by the Minister for Emergency Services) occur.<sup>10</sup>

3.8 The legislation requires the establishment of State emergency management policies and plans in relation to all hazards. An emergency management plan for fuel shortage emergencies was approved by the State Emergency Management Committee on 31 January 2006.<sup>11</sup> It appears that this plan was not implemented after the Varanus Island incident.<sup>12</sup> The Western Australian Local Government Association suggested that the state emergency management plan for fuel shortage emergencies 'be revised and used to determine the priorities for allocation of limited gas'.<sup>13</sup> The committee notes that the plan is currently being reviewed.<sup>14</sup>

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8 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, pp 137–8.

9 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 145.

10 Fire and Emergency Services Authority of Western Australia, *Emergency Management Act 2005 Frequently Asked Questions*, <http://www.fesa.wa.gov.au/internet/upload/shared/docs/EMActFAQsMar06.pdf>.

11 Fire and Emergency Services Authority of Western Australia, *State Emergency Management Plans (WESTPLAN)*, <http://www.fesa.wa.gov.au/internet/?MenuID=297>.

12 Mr John Lane, Western Australian Local Government Association, *Proof Committee Hansard*, 2 October 2008, p. 74.

13 Western Australian Local Government Association, *Submission 8*, p. 2.

14 Fire and Emergency Services Authority of Western Australia, *State Emergency Management Plans (WESTPLAN)*, <http://www.fesa.wa.gov.au/internet/?MenuID=297>.

### **Committee view**

3.9 The committee recognises that some businesses were severely affected by the disruption to their gas supplies following the Varanus Island incident. However, the committee believes that given the circumstances of the incident where there was no collapse or depressurisation of the gas system (only 30 per cent of Western Australia's gas supply was disrupted), and the consequences of forcing unaffected energy suppliers to break contracts and arbitrarily taking gas away from one user to give to another, the government had limited capacity to invoke emergency powers. In the circumstances the steps taken by the state government were appropriate.

### **Contingency planning**

3.10 The government was criticised by some witnesses for lacking a contingency plan or strategic reserve:

Why is there no contingency plan for infrastructure assets vital to industry in this state?<sup>15</sup>

This potential of emergency storage facilities of gas has not been examined or debated widely as evidenced by the State Government's ineffectiveness during the crisis. This is a contingency action the State Government could have implemented in response to the crisis...<sup>16</sup>

The Food Industry Association's view is that the state government is responsible for the reliable and economic provision of essential utilities, including gas, to food and beverage and other industries. It controls that supply through the issue of licences and therefore it is ultimately responsible for the risk management and contingency plans required to ensure secure supply is maintained...<sup>17</sup>

The Western Australian State Government needs to ensure that a reliable, secondary, replacement supply of energy is constructed and able to be brought online in case of a similar emergency.<sup>18</sup>

There needs to be a LPG receiving, storage and distribution centre in Perth (or preferably the south west) that can compete with the natural gas pipeline for customers, and provide its own distribution system to reduce reliance on the pipeline.<sup>19</sup>

3.11 The committee was informed that some gas is already being stored in depleted reserves around the Perth basin. However it was suggested that 'storage facilities are not going to be able to overcome the shortages of the size experienced by the Varanus

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15 Piacentini & Son, *Submission 12*, p. 1.

16 Food Industry Association of Western Australia, *Submission 24*, p. 6.

17 Mr David Lock, Food Industry Association of Western Australia, *Proof Committee Hansard*, p. 85.

18 Australian Hotels Association (Western Australia), *Submission 21*, p. 6.

19 Mr David Smith, Mayor of Bunbury, *Submission 23*, p. 1.

Island gas incident...<sup>20</sup> In outlining the option of a gas storage facility near Perth the Office of Energy told the committee:

You would need a large reservoir to be able to store the quantity of gas that would be required to sustain a 30 per cent reduction in gas supply for the whole state for at least two months. There would be a significant cost involved and there would be significant costs in actually filling the facility with gas and carrying that gas, the point being that the gas cannot be utilised on a daily basis. It effectively has to be a redundancy. It has to sit there and be available for a contingency which is a one-in-thirty-year event. So you have a large carrying cost in terms of the capital tied up in having that type of resource stored.<sup>21</sup>

3.12 The Office of Energy suggested that another possible contingency option would be the development of an offshore LNG receival terminal so that LNG could be delivered by ship directly to the Perth basin:

Other options have been proposed as well—for example, an offshore LNG receival terminal. But, again, you would need ships that effectively are idle, because if they are integrated into the market and used on a daily basis, if you have an event like this they will not be there to provide additional supplies, they will only be part of the integrated daily usage.<sup>22</sup>

3.13 The former Minister for Energy, Hon Fran Logan MLA, suggested that such a facility would cost at least \$1.8 billion:

...because you have to have cryogenic storage facilities. You have to have that system integrated with the current gas distribution system, you have to have regasification facilities and you have to have cryogenic unloading facilities as well. These have been put in place around the world. They are very expensive and someone has to pay for it.<sup>23</sup>

3.14 Similarly, on the question of constructing a regasification terminal the Commonwealth Department of Resources, Energy and Tourism told the committee that the challenge would be in the cost of building such a facility.<sup>24</sup>

3.15 Mr Logan suggested that the given the significant cost of developing such contingencies any proposal would require 'support from all the players in the market, because someone at the end of the day has to pick up the cost'.<sup>25</sup>

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20 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 135.

21 Mr Jason Banks, Office of Energy, *Proof Committee Hansard*, 2 October 2008, pp 129–130.

22 Mr Jason Banks, Office of Energy, *Proof Committee Hansard*, 2 October 2008, p. 130.

23 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 149.

24 Mr Martin Squire, Department of Resources, Energy and Tourism, *Proof Committee Hansard*, 28 October 2008, p. 19.

25 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 149.

3.16 He further suggested that such support would probably not be forthcoming:

They do supply domestic gas and they are the major suppliers of domestic gas but, as you know, they are focusing on LNG exports as the prime income driver for their operations. They are responsible to shareholders and I do not think those boards would take kindly to any proposal put before them to spend money on building domestic gas operations.<sup>26</sup>

3.17 The Chamber of Minerals and Energy told the committee that 'emergency storage of a sufficient volume to be meaningful (i.e. beyond a few days) is both technically and environmentally challenging and may not be economically feasible.'<sup>27</sup>

3.18 The committee was informed that just prior to the election the former government asked the Office of Energy to conduct a review looking into these sorts of contingencies.<sup>28</sup> This was announced as an expansion of the review that was being conducted by the Office of Energy into the circumstances surrounding the incident where gas supplies from the North West Shelf Joint Venture's Karratha gas plant were cut for several days in January 2008. The new government has now been provided advice regarding the endorsement of terms of reference for the inquiry.<sup>29</sup>

### ***Committee view***

3.19 Given the importance of gas supplies to the Western Australian economy it is appropriate that the initiative of the former government to commence the development of an energy security plan should be continued by the newly elected state government. The energy security plan should include a thorough review of possible contingency options. The committee therefore notes the announcement of the review into gas security announced by the Western Australian Government on 6 August 2008. This review should be conducted in coordination with the broader review of energy security detailed in Chapter 5 and the National Energy Security Assessment currently being conducted by the Commonwealth Department of Resources, Energy and Tourism.

3.20 The committee does however note that any contingency option that would be of sufficient scope to mitigate significantly the impact of a gas shortage on the scale of that experience after the Varanus Island incident would be very expensive and could present significant technical and environmental challenges.

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26 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 149.

27 Chamber of Minerals and Energy of Western Australia, *Submission 17*, p. 4.

28 See also Hon Alan Carpenter MLA, Premier, and Hon Fran Logan MLA, Minister for Energy, *Media statement: Government orders review into gas security*, 6 August 2008, <http://www.mediastatements.wa.gov.au/Pages/Results.aspx?ItemId=130664&search=varanus&admin=&minister=&portfolio=&region>.

29 Mr Rolando Custodio, Office of Energy, *Proof Committee Hansard*, 2 October 2008, pp 130–131.

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## Consultation with industry

3.21 The Chamber of Commerce and Industry of Western Australia (CCIWA) described the Government's consultation with industry:

In terms of the communications effort, the government did engage my chamber and the Chamber of Minerals and Energy directly, and it was clear that the government looked to our chambers to play an important role in facilitating communication in both directions—between the government and industry.<sup>30</sup>

3.22 Some subsidiary business groups did not feel this adequately represented their perspectives:

...food and beverage was not well represented across the broad spectrum that CCI were representing...we should have been there to represent the food and beverage industry. We communicated with CCI, but it was a small part of their broader interest...they did not strongly enough represent our industry.<sup>31</sup>

I think it is fair to say that CCIWA have a different view of the world. They have a view that is more aligned to the major corporate structure in this state.<sup>32</sup>

3.23 There was also criticism about a perceived lack of openness by the government. A survey of hoteliers found that 87 per cent were dissatisfied 'with the government's failure to release key documents and facts pertaining to the Varanus Island explosion.'<sup>33</sup> The Food Industry Association of Western Australia (FIA) explained that they:

...made requests for information during the crisis from the Office of Energy, the Department of Agriculture and Food, the Minister for Agriculture and Food and the Premier. Industry and business wanted to gain clarity about the status of the crisis situation, the expected outlook, potential ways to effectively manage and improve the situation, the long term impact, and assurances that similar situations can be avoided and better managed in the future by effective and efficient planning. The lack of provision of this information on request was not explained or declared as confidential..<sup>34</sup>

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30 Mr James Pearson, Chamber of Commerce and Industry of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 36.

31 Mr David Lock, Food Industry Association of Western Australia, *Proof Committee Hansard*, 2 October 2008, pp 85, 95 and 96.

32 Mr Allan Birrell, Bunbury Chamber of Commerce and Industries, *Proof Committee Hansard*, 3 October 2008, p. 24.

33 Australian Hotels Association (Western Australia), *Submission 21*, p. 5.

34 Food Industry Association of Western Australia, *Submission 24*, p. 6.

3.24 Although the FIA did note that 'the Minister for Agriculture and Food was available to meet and discuss the industries and business concerns, but his office's ability to assist was of limited use...'<sup>35</sup>

3.25 Similarly, the Bunbury Chamber of Commerce and Industries reported being able to speak directly to the minister:

Yes, we had access directly to the minister for energy on two occasions through our local members. I think we were given a fair hearing but there was in my view an underlying concern that the domestic market in Perth had to be protected.<sup>36</sup>

3.26 Mr Jason Banks, from the Office of Energy, explained that some information was commercial-in-confidence and therefore could not be released:

We had a very good response from industry and they provided us very good information, but much of it was subject to commercial confidentiality concerns, which were raised with us. So we kept that in confidence and the information we were releasing was at a more aggregated general level.

...from my office's perspective, we were providing public updates from the 4th.<sup>37</sup>

3.27 There was also concern among businesses that they were not informed about the expected duration of the gas shortage following the incident. The Office of Energy explained that information about the duration of the disruption was made available once Apache had made the appropriate assessment.<sup>38</sup>

3.28 The former Minister for Energy, Hon Fran Logan MLA, acknowledged that small to medium sized businesses felt that they were not being communicated with directly by government. Although he pointed out that the gas supply system in Western Australia is a private system and:

They would have to have spoken in the first instance to their supplier of gas and, when they did, as you will find out tomorrow—and I can address some of those issues through the questioning—people were upset about the way in which their supplier was dealing with them. We were encouraging people to go on websites. There was a daily update of what was happening with the gas issue through the Office of Energy website. Alinta itself also had a website dedicated to the gas outage and what people could do about it, and who to contact. Of course, we had various hotlines in place, which we were

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35 Food Industry Association of Western Australia, *Submission 24*, p. 6.

36 Mr Allan Birrell, Bunbury Chamber of Commerce and Industries, *Proof Committee Hansard*, 3 October 2008, p. 25.

37 Mr Jason Banks, Office of Energy, *Proof Committee Hansard*, 2 October 2008, p. 114.

38 Mr Jason Banks, Office of Energy, *Proof Committee Hansard*, 2 October 2008, p. 115.

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advertising on radio, TV, newspapers, to ensure that people had someone to go to, to talk to.<sup>39</sup>

3.29 On the question of releasing documents relating to the National Offshore Petroleum Safety Authority (NOPSA) investigation into the causes of the explosion, Mr Logan told the committee that while it would not have been appropriate to release documents that related specifically to NOPSA's investigation because it would have undermined their investigation:

The questions asked, allegations made, particularly about inspections of pipelines, and documents demanded, would have undermined the investigation, and that was the strong advice that I received from the department itself, and I believe that was confirmed by the state solicitors. For example, you do not start releasing information during the investigation of an air crash, nor do the police start releasing documents when they are halfway through an investigation or part of the way through an investigation into incidents or explosions that may not be of this nature. It just does not happen, and this is no different, though through FOI—and there were a number of FOI applications put in—all relevant information was supplied to both the opposition at the time and the media in terms of what documents they needed. But in terms of documents that related specifically to the work that was being undertaken by NOPSA and that may well have skewed the outcome of this investigation, we did not release those documents and we were advised not to release them for obvious reasons.<sup>40</sup>

### ***Gas Supply Coordination Committee and Gas Supply Disruption Recovery Committee***

3.30 Soon after the explosions on Varanus Island the government set up two committees – the Gas Supply Coordination Committee and the Gas Supply Disruption Recovery Committee. In essence the Coordination Committee was responsible for dealing with energy supply issues and met on regular occasions to work through the five-point plan which was designed to minimise the impact of the incident.<sup>41</sup> The membership and remit of the Coordination Committee is discussed at paragraph 3.1.

3.31 A communications subcommittee of the Coordination Committee was also established 'in order to maintain consistency of messages to the public, industry and other government agencies'. Membership of the subcommittee included government

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39 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 138.

40 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 137.

41 As noted in paragraph 3.1, the five-point plan involved accessing gas from the North West Shelf and other suppliers, accessing energy from other sources to free up gas such as displacing gas from power generation with distillate fuel, encouraging gas and electricity customers not to waste energy, working with industry to shift demand to low-peak times and ensuring that diesel was available to replace natural gas where possible.

departments, electricity utilities, Alinta, the CCIWA, the CME and a media company, Marketforce.<sup>42</sup>

3.32 With regard to the Gas Supply Disruption Recovery Committee, the then Premier outlined its membership and remit in state parliament on 12 June 2008:

Of course, we are dealing not just with the restoration of energy supplies; the issue is broader than that. Our other key priority is to deal with the fallout from the disruption to gas supplies; that is, the economic, social and employment consequences of that disruption...I have instructed the Director General of the Department of the Premier and Cabinet, Mr Mal Wauchope, the most senior public servant in the state, to bring together a high-powered team to coordinate our response to the economic and social impacts of this event. The group is holding its first meeting as we speak. The group will meet as often as required and will report to me, other relevant ministers and the Gas Supply Coordination Committee...The aim of the [Gas Supply Disruption Recovery Committee]<sup>43</sup> is to support industry, businesses, services and communities that have been affected by the gas supply disruption, so that they can return as quickly as possible to normal function. In particular, I want the team to focus on industry concerns about the impact of the gas shortage, such as the shutdown and closure of some businesses; concerns about the potential for job losses and flow-on effects for businesses and the community; the effect on essential services, including food supplies and hospitals; and the effect on future economic growth and the mining industry.<sup>44</sup>

3.33 The Chief Executive of the Chamber of Minerals and Energy of Western Australia told the committee:

I have no criticism of the Gas Supply Coordination Committee. I think there are some suggestions that we would make of how a committee of that nature could work better and perhaps have a better redundancy situation. It put significant pressure on key individuals. There are comments one would make about the Gas Supply Disruption Recovery Group. I think that some parties that were part of that were clearly well organised, others less organised, and I think there are some observations that can be made about

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42 Hon Fran Logan MLA, *Submission 31*, pp 3–4.

43 Membership of the Gas Supply Disruption Recovery Committee included representatives from the Western Australian Treasury, the Department of Industry and Resources, the Department of Health, the Department of Agriculture and Food, the Department for Communities, the Small Business Development Corporation, relevant commonwealth agencies such as Centrelink and the Department of Education, Employment and Workplace Relations, and a number of peak industry bodies such as the Chamber of Commerce and Industry of Western Australia, the Chamber of Minerals and Energy of Western Australia, the Western Australian Meat Industry Authority and the Western Australian Local Government Association.

44 Hon Alan Carpenter MLA, Premier, *Western Australian Legislative Assembly Hansard*, 12 June 2008, pp 3781–3782.

how that could be improved if there were a major incident in Western Australia.<sup>45</sup>

3.34 Mr Stuart Hohnen, Chairman of the DomGas Alliance, told the committee that:

having started with the premise that the government determined that they wanted to deal with it, to the extent possible, through market mechanisms, I think the [coordination] committee operated quite effectively.<sup>46</sup>

3.35 The Food Industry Association of Western Australia was critical of both committees:

The State Government has reinstated two committees in response to the crisis: (1) Gas Supply Coordination Committee dealing with the priority allocation of gas and (2) a Recovery Committee. At the first committee, the food and beverage industry appeared to be unrepresented. The responsibility of this committee was unclear or no noticeable actions were taken and/or communicated to the wider business community. This Committee appeared to have determined a priority order of gas allocation as published on its internet site, however this priority was not enforced with any authority and seemed to have been the sole responsibility of Alinta, whose gas supply was severely decimated. The question can be raised what was the actual function, impact and achievement of this committee? For the Recovery Committee – no apparent action, outcomes have been reported/or communicated. As with the first committee the effectiveness should be questioned.<sup>47</sup>

3.36 In response to questions about the membership of the Coordination Committee and in particular the apparent lack of representation of small customers, Mr Logan told the committee that:

...what we were trying to do was have on the committee those people who could actually take actions to ensure that the maximum amount of gas was available to those small customers.<sup>48</sup>

3.37 In its submission the Western Australian Local Government Association (WALGA) informed the committee that it accepted an invitation to participate in the Gas Supply Disruption Recovery Committee:

This committee met on three occasions and provided two way communications through daily email updates between meetings. This

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45 Mr Reginald Howard-Smith, Chamber of Minerals and Energy of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 98.

46 Mr Stuart Hohnen, DomGas Alliance, *Proof Committee Hansard*, 2 October 2008, p. 29.

47 Food Industry Association of Western Australia, *Submission 24*, p. 5.

48 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 143.

committee was considered a worthwhile undertaking by local governments, although its impact on decision-making at the local level was limited.<sup>49</sup>

3.38 At the hearing WALGA expanded on what they thought the Recovery Committee achieved:

I think our view would be that it achieved some degree of dialogue, a marginal degree of improved understanding of the situation, an awareness of the situation that others were trying to respond to, but it never gained the status of managing an emergency and therefore it never, within the sorts of spheres that we operate in, drove decision making in an emergency type of mindset.<sup>50</sup>

3.39 WALGA representatives noted that these observations were with the benefit of hindsight and they raised no objections at the time.<sup>51</sup>

### ***Committee view***

3.40 The committee recognises that some small and medium-sized businesses felt that they were not being communicated with directly by the government during the gas shortage. However, the committee notes that the gas system in Western Australia is privatised and therefore information about the operations of the system beyond a more aggregated general level is subject to commercial confidentiality concerns which limited the government's ability to provide specific information to businesses. In relation to non commercial in confidence information the committee believes that processes should be put in place to enhance transparency and information for the public.

3.41 With regard to the release of documents relating to the NOPSA investigation into the causes of the explosions, the committee notes that the former government received advice from the relevant department and the State Solicitor's Office that releasing certain information would undermine NOPSA's investigation. The committee also notes that the only documents that were not released were those that related specifically to the work that was being undertaken by NOPSA.

### **Government involvement in the allocation of available energy**

3.42 With a privatised gas market based on contractual obligations and limited capacity for government intervention the government had little option but to operate within a market based approach in response to the gas shortage. The government therefore adopted a collaborative approach to the allocation of available energy after the initial priority order had been determined.

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49 Western Australian Local Government Association, *Submission 8*, p. 2.

50 Mr John Lane, Western Australian Local Government Association, *Proof Committee Hansard*, 2 October 2008, p. 77.

51 Mr John Lane, Western Australian Local Government Association, *Proof Committee Hansard*, 2 October 2008, pp 82–83.

3.43 On 9 June, the Gas Supply Coordination Committee agreed on a set of guiding principles for the allocation of available energy. The Office of Energy explained that the priority order was based on the need to protect the health, safety and property of the community, minimise broad community disruption and minimise economic impact.<sup>52</sup> The guiding principles were published and they were used as a guide for suppliers of energy in terms of their allocation.<sup>53</sup> The Office of Energy outlined the priority schedule as follows:

1. Energy infrastructure is to be given top priority to maintain the State's capability to supply gas and electricity to users.
2. Essential Services are defined as those critical services that have the potential to seriously impact on the health and safety of the community and include essential public transport and communications.
3. Essential Supply to Residential Customers will minimise the potential for health impacts and disruption to the community. Consumers are encouraged to reduce energy consumption.
4. Industries providing essential goods and services to the WA community will have a higher priority in the allocation of energy than those that do not. This is to minimise disruption to the community and recognise the important services that these industries provide.
5. For all other industries, every effort will be made to maximise the availability of supply, recognising their importance to the State and National economy.<sup>54</sup>

3.44 The Office of Energy noted that the priority schedule would not override contractual arrangements, that in assessing allocation to industries consideration would be given as to whether they have alternative supplies, and that there are physical limitations to the operations of the gas and electricity supply system which would impact on the application of the schedule.<sup>55</sup>

3.45 The committee heard that there was some criticism of the overall priority schedule:

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52 Hon Margaret Quirk MLA, Minister for Small Business, 'Minister urges small business to "tighten belt" on energy use', Media Statement, 10 June 2008.

53 Mr Jason Banks, Office of Energy, *Proof Committee Hansard*, 2 October 2008, p. 109.

54 Office of Energy, *Gas Supply Coordination Committee*, [http://www.energy.wa.gov.au/2/3251/64/gas\\_supply\\_coor.pm](http://www.energy.wa.gov.au/2/3251/64/gas_supply_coor.pm).

55 Office of Energy, *Gas Supply Coordination Committee*, [http://www.energy.wa.gov.au/2/3251/64/gas\\_supply\\_coor.pm](http://www.energy.wa.gov.au/2/3251/64/gas_supply_coor.pm).

It is also our view that the priority structure developed by the Office of Energy was flawed and more consideration of the needs of industry was required.<sup>56</sup>

Industry was given the lowest priority by the government in the gas allocation policy, and there was no consideration of gas rationing to non essential domestic users.<sup>57</sup>

A more equitable system would have been for all parties affected by the explosion to have their gas allocation reduced by 30%.<sup>58</sup>

### ***Committee view***

3.46 The priority schedule for the allocation of available energy developed by the Gas Supply Coordination Committee was designed to minimise broad community disruption and economic impact by allocating available energy to energy infrastructure in the first instance, followed by:

- critical health and safety services, including public transport and communications;
- residential customers;
- industries providing essential goods and services; and
- other industries.

3.47 The committee believes that this broad priority schedule was sensible and appropriate in the circumstances following the Varanus Island incident. In particular, the committee agrees that supply of energy to residential customers was crucial to ensure that negative health impacts were minimised, particularly as the incident occurred in winter.

3.48 There was also criticism about how available energy was allocated and distributed by the retailer, Alinta. This is discussed in Chapter 4.

### **Energy saving measures**

3.49 Some witnesses suggested that not enough was done to reduce household usage of energy:

...more could have been done at an earlier stage in terms of encouraging the household sector to adopt energy conservation efforts.<sup>59</sup>

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56 Mr Allan Birrell, Bunbury Chamber of Commerce and Industries, *Proof Committee Hansard*, 3 October 2008, p. 23.

57 Bunbury Wellington Economic Alliance, *Submission 2*, p. 2.

58 Lighthouse Beach Resort, *Submission 3*, p. 2.

59 Mr James Pearson, Chamber of Commerce and Industry of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 36.

It is our strong view that not enough was done early enough to encourage the domestic market to decrease their use of energy. A significant decrease in domestic demand would have led directly to a valuable increase in available supplies to the commercial and industrial market...<sup>60</sup>

3.50 The government did however issue press releases from 8 June and the Premier appeared on television urging households and businesses to use less energy. About \$950 000 was spent encouraging households to use less energy.<sup>61</sup> The Government also highlighted that gas is used to produce electricity so it would not help to simply replace one with the other.<sup>62</sup> In late June it was reported that five per cent reductions in energy use were being recorded at peak morning and evening times.<sup>63</sup>

3.51 The former Minister for Energy, Hon Fran Logan MLA, noted that:

Demand management from industry and households was magnificent. There was a real sense of working together to overcome the situation facing the State. Clearly our communications to the public and industry were working properly as electricity consumption fell consistently. From 18<sup>th</sup> June until 1<sup>st</sup> August, 28,858 fewer megawatt hours were used than expected, showing a dramatic response by both households and business to the call for energy savings. Gas consumption was also reduced over this period, but to a much lesser extent, due to some very cold days during the period.<sup>64</sup>

3.52 On the other hand, it was also suggested that this emphasis on households reducing consumption was misplaced as they only directly account for around three to five per cent of overall gas consumption. However, the Coordinator of Energy told the committee that 'as a portion of Alinta's portfolio—and the Alinta customers were being seriously affected by the disruption—it is a significantly larger quantity.' He argued that the rationale behind the energy saving campaign was that any gas saving out of the Alinta portfolio would increase the ability of Alinta to allocate gas to its other customers that were subject to disruption.<sup>65</sup> The Chairman of the DomGas Alliance, Mr Stuart Hohnen also considered that the energy saving campaign was important, particularly because of the amount of gas that is used to generate electricity in Western Australia and the timing of the incident:

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60 Mr Allan Birrell, Bunbury Chamber of Commerce and Industries, *Proof Committee Hansard*, 3 October 2008, p. 23.

61 Mr Jason Banks, Coordinator of Energy, *Proof Committee Hansard*, 2 October 2008, p. 127.

62 Hon Margaret Quirk MLA, Minister for Small Business, 'Minister urges small business to "tighten belt" on energy use', Media Statement, 10 June 2008.

63 Hon Fran Logan MLA, Minister for Energy, 'Daily updates of energy use', Media Statement, 25 June 2008.

64 Hon Fran Logan MLA, *Submission 31*, p. 5.

65 Mr Jason Banks, Coordinator of Energy, *Proof Committee Hansard*, 2 October 2008, p. 127.

...there is a much bigger proportion of gas that flows into electricity and that electricity is then used by household consumers, so it is householders' savings in electricity that become more significant than savings in gas, but I might also say that that five per cent is an annual average, and home heating causes that to spike considerably more than five per cent during the winter months. So, given that this Varanus incident happened during winter, a call for householders to reduce their gas consumption and electricity consumption was relevant.<sup>66</sup>

### ***Committee view***

3.53 The evidence presented to the committee demonstrated that there was a need to encourage residential users to minimise their energy consumption during the disruption. The committee notes that the government publicly called for a reduction in residential energy usage from 8 June, and developed a print, radio and television campaign along those lines. Suggestions that the government had not done enough to reduce household energy use were inconsistent with evidence presented to the inquiry and unfounded.

### **Gas Bulletin Board**

3.54 On 2 July 2008 the government announced that it would set up an email-based secondary market for gas, known as the Gas Bulletin Board (GBB). The bulletin board was designed to make it easier for businesses to get access to gas by allowing gas users and producers to make trades, facilitated by the Independent Market Operator (IMO). The Energy Minister at the time noted the despite the gas shortage 'there are still days when some gas is available for spot sale. The bulletin board will provide a forum for this gas to be sold.'<sup>67</sup> The GBB commenced operations on 3 July 2008. As a result of the partial resumption of gas supplies from Varanus Island, and no gas being offered for sale on the GBB since 29 August 2008, the IMO recommended to the Office of Energy that the GBB be closed down. This recommendation was accepted and the GBB ceased operation on Monday 13 October 2008.<sup>68</sup>

3.55 Three sellers of gas offered gas for sale on the GBB during its operation. A total of 532.5 terajoules of gas was offered for sale at prices ranging from \$10.00 to \$35.00 per gigajoule. Nine registered traders were successfully matched as buyers on the GBB and all successful matches were priced between \$15.50 and \$18.50 per gigajoule. A total of 47.8 terajoules was traded. The IMO states that 'while trading volumes on the GBB were significant, given the limited operating duration, it

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66 Mr Stuart Hohnen, DomGas Alliance, *Proof Committee Hansard*, 2 October 2008, p. 25.

67 Hon Francis Logan MLA, Minister for Energy, 'New online "bulletin board" for gas sales', Media Statement, 2 July 2008.

68 Independent Market Operator, *Gas Bulletin Board Report*, <http://www.imowa.com.au/Attachments/GasBulletinBoard/GasBulletinBoardFinalReport.pdf>.

appeared that a number of gas traders, once introduced through a GBB match, continued to trade bilaterally outside of the GBB.<sup>69</sup>

3.56 The IMO outlined a number of impediments to trade on the GBB that they became aware of during its operation. They included:

- The ability to negotiate commercially acceptable gas transport agreements.
- The logistics of arranging transport on the Dampier to Bunbury Natural Gas Pipeline and the Metro distribution network. This raised concerns for gas traders matched in initial trading on the GBB, however once the various contracting parties established procedures and protocols for GBB trades it became less of an issue.
- A restriction on the ability of some gas users, under the terms of their gas supply contracts, to on-sell surplus gas to other parties. This provision limited the amount of gas traded on the GBB.
- Competition concerns which prevented a major gas industry participant from aggregating their customer's gas supply requirements and buying from the GBB on their behalf.
- Once the partial supplies of gas from Varanus Island resumed, the IMO became aware that transport arrangements were withdrawn for gas traders connected to the Metro distribution network. This significantly reduced the number of potential traders on the GBB.<sup>70</sup>

3.57 However, despite these impediments the IMO viewed the GBB as a success for the following reasons:

- The GBB provided transparent trade data, including pricing information, which allowed Western Australian gas users to evaluate the cost of securing gas supplies. This information was published on the IMO website.
- The IMO received a great deal of cooperation from the gas traders, gas pipeline owners and the Office of Energy during the design and implementation of the GBB.
- Despite the limited time the GBB operated, with 27 registered traders, 14 active traders, and trading volumes of 47.8 TJs this initiative could only be viewed as a success.

The GBB demonstrated that a formal regulated gas market could be successfully implemented in Western Australia.<sup>71</sup>

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69 Independent Market Operator, *Gas Bulletin Board Report*, <http://www.imowa.com.au/Attachments/GasBulletinBoard/GasBulletinBoardFinalReport.pdf>.

70 Independent Market Operator, *Gas Bulletin Board Report*, <http://www.imowa.com.au/Attachments/GasBulletinBoard/GasBulletinBoardFinalReport.pdf>.

71 Independent Market Operator, *Gas Bulletin Board Report*, <http://www.imowa.com.au/Attachments/GasBulletinBoard/GasBulletinBoardFinalReport.pdf>.

3.58 The IMO told the committee that 'a gas bulletin board or some sort of transparent market for gas in Western Australia would be quite a significant asset to Western Australia and its industry. The transparency of price and an understanding of the supply and demand parameters under which the gas market functions would be of huge benefit economically to Western Australia's economy.'<sup>72</sup> The Economic Regulation Authority also expressed support for such an initiative.<sup>73</sup>

3.59 Some witnesses, such as the Chamber of Commerce and Industry of Western Australia (CCIWA), also regarded the GBB as a useful initiative. Mr James Pearson, CCIWA's Chief Executive, told the committee that the CCIWA had encouraged the government to establish the GBB 'in order to add more transparency into the market and provide more information about what supply was there and what demand was there and, indirectly, to help set a price for that.'<sup>74</sup>

3.60 Initially the minimum purchase through the GBB was 0.5 terajoules and this appeared to be too large for some very small businesses:

To pick up the point of the very small businesses, we realised that the actual amount that we had set for trading of gas was too high and therefore—again, because of the feedback that we got—we set up a secondary bulletin board that allowed much smaller volumes of gas to be traded.<sup>75</sup>

3.61 The minimum purchase through the secondary board was 0.1 terajoules. In his submission, the former Minister for Energy, Hon Fran Logan MLA, told the committee that 'these trade would normally not even have been considered, given the low volumes demanded and the cost of transportation to the premises.'<sup>76</sup>

3.62 Other witnesses, such as the Food Industry Association of Western Australia, suggested that the GBB 'appeared to lead to profiteering'.<sup>77</sup> This allegation is considered in Chapter 4.

3.63 The Australian Petroleum Production and Exploration Association called for measures to establish a more competitive market for gas in Western Australia:

Encouraging development of a 'spot' market in Western Australia by establishing a gas market bulletin board will increase opportunities for gas

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72 Mr Allan Dawson, Independent Market Operator, *Proof Committee Hansard*, 26 November 2008, pp 7–8.

73 Mr Peter Kolf, Economic Regulation Authority, *Proof Committee Hansard*, 26 November 2008, p. 8.

74 Mr James Pearson, Chamber of Commerce and Industry of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 37.

75 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, pp 143–144.

76 Hon Fran Logan MLA, *Submission 31*, p. 6.

77 Mr David Lock, Food Industry Association of Western Australia, *Proof Committee Hansard*, 2 October 2008, p. 86.

trading and result in market growth and more competition. APPEA welcomed the State Government announcements of an online bulletin board for gas sales as an important step forward in facilitating trade in natural gas in Western Australia. This system closely resembles the National Gas Market Bulletin Board that came into effect in all States except Western Australia on 1 July this year. One important feature of the national scheme that has not been adopted in WA is the provision of information on pipeline capacity and flows. Transparency in gas transportation is as essential to a fair and effectively functioning gas market as transparency in gas production and gas use.<sup>78</sup>

3.64 Mr Logan explained that information on pipeline capacity and flows was not included as part of the Western Australia GBB due to the short timeframe in which it was developed. He did, however, agree that if the GBB were to stay in place information on pipeline capacity and flows should be included:

If the bulletin board is to stay in place in Western Australia, that is the sort of thing that should be put in it, because we need to know, for example, that the gas coming down the Dampier to Bunbury pipeline is going to those customers that need it or that it is contracted to, because there were allegations of gas hoarding in the pipeline itself, in the major Dampier to Bunbury pipeline. We had no visibility of that and we had no legal way of being able to examine it.<sup>79</sup>

3.65 Mr Logan also suggested that if the Office of Energy was given the power to examine in detail the transportation figures from the DBNGP and the GGP and therefore be able to see the volumes of gas coming down the pipelines (and their final destination), advice on maximising gas demand management becomes easier and accusations of gas hoarding or unfair consumption practices can be clarified.<sup>80</sup>

### ***Committee view***

3.66 The committee notes that the introduction of the Gas Bulletin Board (GBB) was generally welcomed by industry representatives and allowed for some gas to be supplied to businesses affected by the gas shortage. The GBB also demonstrated that a formal regulated gas market could be successfully implemented in Western Australia.

3.67 It was suggested to the committee that the establishment of a permanent GBB in Western Australia would increase opportunities for gas trading and could therefore result in market growth and more competition. The committee notes that the National Gas Market Bulletin Board includes the provision of information on pipeline capacity and flows.<sup>81</sup> Evidence was provided to the committee suggesting that this should be

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78 Australian Petroleum Production and Exploration Association, *Submission 26*, p. 4.

79 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 146.

80 Hon Fran Logan MLA, *Submission 31*, p. 6.

81 Further information about the National Gas Market Bulletin Board can be found at <http://www.gasbb.com.au/>.

included in any future permanent Western Australian GBB to increase transparency in gas transportation.

### **Government hotlines**

3.68 The government established several hotlines to assist people affected by the gas shortage. At the hearing Mr Logan informed the committee that:

We had a significant number and a variety of hotlines set up to deal with the complaints and issues of people who were affected by the gas shortage: wage hotlines, gas disruption hotlines, employment related hotlines, small business hotlines. The gas disruption hotline, for example, over that period of time that I just referred to, 9 June until 6 August, which was primarily the whole of the incident, had received 71 calls over that period. Twenty were employment related, 28 were non-employment-related and 23 were wrong numbers or hang-ups.

The demand on government resources, whether federal or state, for those impacted by the gas shortage directly as employees was significantly lower than we initially expected.

3.69 With regard to the small business hotline, the Minister for Small Business at the time noted that a number of businesses had scaled back operations and that many small businesses would be affected by increased costs passed on by suppliers and a drop in consumer spending. The Minister encouraged small business owners affected by the incident to take advantage of the hotline which would be operated through the Small Business Development Corporation which 'has a team of experienced business advisers who can assist small business operators to deal with these situations.'<sup>82</sup>

### **The role of Commonwealth Government agencies**

3.70 In the weeks after the explosion the Commonwealth Government undertook a number of initiatives to try to minimise the impact of the explosion.

### ***Defence***

3.71 The Minister for Defence agreed to surrender an order of six megalitres of diesel for the Royal Australian Navy, which allowed the BP refinery at Kwinana to concentrate on bolstering diesel supplies for Western Australian industry. The Minister also advised that he would consider releasing additional diesel from strategic reserves if required.<sup>83</sup> In the end the release of additional diesel from these reserves was not required as companies were able to supply it.<sup>84</sup>

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82 Hon Margaret Quirk MLA, Minister for Small Business, 'Minister urges small business to use hotline service', Media Statement, 17 June 2008.

83 The Hon Martin Ferguson MP, Minister for Resources and Energy, *House of Representatives Hansard*, 16 June 2008, pp 4855–4858.

84 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 142.

### ***Critical Infrastructure Protection Modelling and Analysis Program***

3.72 The Department of Resources, Energy and Tourism (DRET) made a formal request to the Attorney-General's Department for the Critical Infrastructure Protection Modelling and Analysis Program (CIPMA) team to undertake some modelling and analysis on the economic impact of the Varanus Island disruption. The analysis was undertaken by Geoscience Australia and a report on the disruption was delivered to DRET on 3 October.<sup>85</sup> A summary of the report was provided to the committee and is discussed in Chapter 2.

### ***Gas Supply Disruption Recovery Committee***

3.73 Several commonwealth agencies, including the Australian Bureau of Statistics, Centrelink and the Department of Education, Employment and Workplace Relations were members of the Gas Supply Disruption Recovery Committee. As noted in paragraph 3.32 above, the aim of the Recovery Committee was to support industry, businesses, services and communities that have been affected by the gas supply disruption, so that they can return as quickly as possible to normal function.

3.74 The Australian Bureau of Statistics was also a member of the Recovery Committee and they offered assistance to the government in relation to measuring the economic impact of the gas supply disruption.<sup>86</sup>

### ***Centrelink***

3.75 JobSearch support through Centrelink was made available for those who were directly affected by the incident.<sup>87</sup> However, the number of workers approaching Centrelink was much less than the impression given by some media reports:

From 9 June until gas resumption by Apache on 6 August, Centrelink had received 101 inquiries from people whose employment had been affected by the gas disruption. Fifty-six of those resulted in claims for the Newstart allowance or equivalent unemployment benefits.<sup>88</sup>

3.76 The committee heard from one business that Centrelink were quick to offer support:

Within a day or so of the crisis we had had contact from the local Centrelink office, who were offering assistance should redundancies or

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85 Mr Michael Jerks, Attorney-General's Department, *Proof Committee Hansard*, 28 October 2008, p. 11.

86 Australian Bureau of Statistics, *1304.5 – Stats Talk WA, Sep 2008*, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/7d12b0f6763c78caca257061001cc588/dbcaaaeecccd1718ca25729e000a177c!OpenDocument>.

87 The Hon Martin Ferguson MP, Minister for Resources and Energy, *House of Representatives Hansard*, 16 June 2008, pp 4855–4858.

88 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 135.

layoffs be necessary. We did not get to that stage but the offer was there from the Centrelink office which we appreciated.<sup>89</sup>

3.77 As noted in Chapter 2, the committee received evidence from several contractors in the south west who were severely affected by the gas shortage.<sup>90</sup> It was reported that Centrelink are limited in the assistance they can provide to independent contractors.<sup>91</sup> The former Minister for Energy, Hon Fran Logan MLA, suggested that this could be an area for improvement in the future:

One of the issues, particularly for the federal government, is how it deals with contractors in a situation like this. You will hear from a number of companies in Bunbury, quite rightly, that they would not have gone to Centrelink seeking unemployment benefits, and those that did actually were rejected because they are contractors and therefore they were not entitled to the Centrelink payments. That is one of the issues that came out of this incident and I am sure it will be one of the issues that will be raised with you tomorrow in the south west. There were a number of contractors in the south west who were affected by this who are incidental to the gas issue—that is, log haulers in the south west, because the production processors had closed down. They were not delivering logs to the production processors; therefore, they were laid off and were unable to get Centrelink payments because they were contractors.<sup>92</sup>

### ***Commonwealth liquid fuel emergency powers***

3.78 The Commonwealth Government can also invoke emergency powers in the event of a liquid fuel supply emergency; however it would only be invoked when there was a liquid fuel emergency that crossed state borders.<sup>93</sup>

### ***Committee view***

3.79 While the direct consequences of the explosions on Varanus Island were largely limited to Western Australia, the Commonwealth Government acted promptly to provide significant logistical and practical support to the former Western Australian government and the community. The question on what assistance Centrelink should provide to independent contractors in the case of such incidents is complex, nevertheless this should be examined by the Department of Human Services with a view to ensuring prompt and effective advice and support is available to citizens affected by incidents such as the Varanus Island gas explosion.

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89 Mr John Tombleson, Piacentini & Son, *Proof Committee Hansard*, 3 October 2008, p. 3.

90 Plantation Logging Co., *Submission 7*; Premin Holdings, *Submission 9*; M & T Cutts Haulage, *Submission 19*.

91 Mr Preston Gardiner, Premin Holdings, *Proof Committee Hansard*, 3 October 2008; Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 135.

92 Hon Fran Logan MLA, *Proof Committee Hansard*, 2 October 2008, p. 135.

93 Mr John Griffiths, Department of Resources, Energy and Tourism, *Proof Committee Hansard*, 28 October 2008, p. 14.